

SENATE BILL REPORT

ESHB 1996

As of March 18, 2009

Title: An act relating to locating underground facilities.

Brief Description: Concerning the ability to locate underground facilities.

Sponsors: House Committee on Technology, Energy & Communications (originally sponsored by Representatives Armstrong and Eddy).

Brief History: Passed House: 3/04/09, 95-0.

Committee Activity: Environment, Water & Energy: 3/17/09.

SENATE COMMITTEE ON ENVIRONMENT, WATER & ENERGY

Staff: William Bridges (786-7416)

Background: One-Number Locator Service. In 1984, a one-number locator service was established to assist excavators in identifying underground utility facilities, commonly known as "Call Before You Dig." All owners of underground utility facilities within a one-number service area must subscribe to the service.

In general, an excavator must call the one-number locator service before digging in a construction site. After receiving the call, the service notifies the relevant utilities who own underground facilities near the site. The utilities must then mark the location of their facilities within two business days. An excavator cannot dig before the underground facilities are marked.

Service Laterals. The current call-before-you-dig law does not cover service laterals if their location can be visually determined from other facilities at the construction site, such as meters and junction boxes. A service lateral is generally an underground pipe or wire on the utility customer's property that is used to distribute a utility service from the main line to the customer.

Penalties. Excavators have the right to receive compensation from a utility if it did not mark its facilities in accordance with the law. A civil penalty of not more than \$10,000 applies when an excavator fails to notify the one-number locator service and causes damage to a hazardous liquid or gas pipeline. The civil penalty is not more than \$1,000 for violations relating to facilities that are not hazardous liquid or gas pipelines.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill: Specifying Liability for Failing to Subscribe to One-Number Locator Service. An owner of an underground utility facility who is required to subscribe to the one-number locator service, and fails to do so, is liable for all damages to the owner's underground facilities and for any other damages that occurred after proper notice was given through the one-number locator service. Persons who own underground facilities at their residence, farm, or place of business are not required to subscribe to the one-number locator service.

Including Service Laterals. An owner of the underground utility facility must mark service laterals when required to do so. "Service lateral" means only that portion of an individual customer service line that is owned or operated by the owner of the underground facility.

Excluding Bar Holes. Bar holes are excluded as an excavation activity if a bar hole is created by hand-operated equipment during emergency leak investigations or the bar hole is less than 12 inches in depth. A "bar hole" is a hole made with a bar for the specific purpose of testing the subsurface atmosphere with a combustible gas indicator. If a bar hole is 12 or more inches in depth, reasonable measures must be taken to eliminate arc hazards.

Excluding Road and Ditch Maintenance. The following activity is excluded as an excavation activity: road and ditch maintenance that does not change the original road grade or ditch flowline.

Technical changes are made.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill was shaped by having all the players in one room and they left in agreement; now some people are going sideways. The bill should be left intact. The bill is the first step toward a comprehensive solution that the Washington Utilities & Transportation Commission will work on this interim with stakeholders. Current law requires service laterals to be marked. Sometimes this is not done because the law exempts a service lateral if its presence can be determined from other visible objects. This exception has been abused and the result is that 70 percent of all utility strikes during construction involve service laterals.

OTHER: There was an agreement on most utility facilities except for sewer laterals. Some sewer laterals are made of concrete so they cannot be detected with the usual equipment, and any records that could locate their presence are often unreliable or nonexistent. Service laterals should be exempt or a new definition of unlocatable utility facilities should be added.

Persons Testifying: PRO: Representative Armstrong, prime sponsor; Dave Ducharme, Mike Myette, Mark Scoccolo, Utility Contractors Association of Washington; Don Evans, Utility Underground Location Center; Collins Sprague, Avista.

OTHER: Ashley Probart, Association of Washington Cities; Mike Ward, city of Everett; Gregg Zimmerman, city of Renton.